

Exhibit “OOO” to Amended Verified Petition

Department of Health approvals, as may be required, must precede final Planning Board approval.

(i) Landscaping, lighting and traffic flow on the site must be approved by the Planning Board in connection with all other plan requirements.

(j) The permittee must install and maintain a water meter, at its sole expense, and must maintain accurate production records, which records must be available for inspection by Town personnel upon demand.

(k) The application for this permit must include a description of the operation, estimated volume of production in gallons per day, methods of storage and transport and a construction plan for related facilities. All other general Special Exception Use requirements and Site Plan requirements as set forth elsewhere in this Zoning Law shall apply to this use.

(l) All permits granted hereunder must be renewed every three (3) years. The applicant must apply for such renewal not less than 90 nor more than 120 days prior to the expiration of the existing permit. Upon receipt of such application, the Planning Board may, but need not, convene a public hearing prior to ruling on the permit renewal application.

(m) A permit issued hereunder may be revoked for cause after due notice to the permittee and after the permittee has had an opportunity to be heard on any proposed revocation.

Section 130-40-40 SPECIAL EXCEPTION USE AND/OR SITE PLAN PUBLIC HEARING PROCEDURE

130-40-40.10 Application for a permit authorizing a special exception use and/or site plan shall be made directly to the Planning Board in the form required by the Planning Board accompanied by a filing fee payable to the town clerk and a site plan according to Section 140-50.

130-40-40.20 The Planning Board shall hold a public hearing within sixty-two (62) days from the time of receipt of the complete application by the Planning Board, and shall provide for the giving of notice at least five (5) days prior to the date thereof in the same manner as provided for in Sections 130-20-20.10 through 130-20-20.40 for applications to the Zoning Board of Appeals for variances.

130-40-40.30 No action shall be taken on applications referred to the Orange County Planning Department until the Department's recommendation has been received or thirty (30) days have elapsed after the Department received the full statement on the applicant's proposal or unless or until the said Planning Department has indicated that the type of application is one that it will not review, whichever event first happens.

130-40-40.40 Unless otherwise superseded, the provisions of Town Law 274-a and 274-b shall control the Special Exception Use and Site Plan permitting jurisdiction of the Planning Board. Town Law Section 274-a (8) (Chapter 694 of the Laws of 1992, effective July 1, 1993), and Section 274-b (6) (Chapter 694 of the Laws of 1992, effective July 1, 1993) are hereby superseded to the extent that the requirement that every decision of the

Planning Board shall be filed in the office of the Town Clerk within five (5) business days of the date such decision is rendered shall be deemed to be the date such written decision is approved by resolution of the Planning Board.

130-40-40.50 A record shall be established of all special exception uses granted pursuant to action of the Planning Board under this Local Law. Each case shall be identified by a sequential numbering system and alphabetically by applicant's name. Said files shall be available for public inspection.

130-40-40.60 Upon the granting of a permit for a special exception use and/or site plan approval by the Planning Board, the Secretary of the Planning Board shall transmit written approval of such use to the Building Inspector prior to his issuance of a building permit for the special exception use and/or site plan.

130-40-40.70 Building permits authorized by Planning Board actions on special exception and/or site plan applications, including site plan applications approved by the Building Department, shall be obtained within eighteen (18) months and shall automatically expire if construction under the permit is not started within ninety (90) days of issuance and completed within one (1) year from the date construction and/or site disturbance begins. Extensions of these periods may be granted by the Planning Board where good cause is shown.

130-40-40.80 The fee for applications to the Planning Board shall be in accordance with the current Town Fee Schedule. (See Appendix 4 of this Local Law)

Section 140 ADMINISTRATION AND ENFORCEMENT

Section 140-10 INTERPRETATION

In applying and interpreting this Local Law, its provisions shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, comfort, convenience, or the general welfare. The following specific regulations shall apply:

140-10-10 A minimum required lot or yard size for one building or structure shall not be used as any part of a required lot or yard for a second structure.

140-10-20 The required lot or yard for an existing building or structure shall not be diminished below the minimum requirements of this Local Law.

140-10-30 The parking spaces required for one building or structure or use shall not be included in the computation of required parking spaces for a second building or structure or use.

Section 140-20 RELATION OF LOCAL LAW TO OTHER PROVISIONS OF LAW AND TO PRIVATE COVENANTS AND AGREEMENTS

140-20-10 Nothing contained in this Local Law shall be taken to repeal, abrogate, annul or in any way impair or interfere with the building code or any rules or regulations adopted or issued thereunder, or any provisions of law or ordinances or regulations existing or as may be adopted in the future, when not in conflict with any of the provisions of this Local Law, nor is it intended by this Local Law to interfere with or abrogate or annul any

Index No. 2007-2713

Judge Nicholas DeRosa A.S.C.J.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

In the Matter of the Application of

MEHLON TRUCKING, INC.,

Petitioner-Plaintiff,

For a Judgment Pursuant to Article 78
of the CPLR

-against-

THE PLANNING BOARD OF THE TOWN OF MONTGOMERY
and JOHN L. BROWN as Chairman of the Planning Board of the
Town of Montgomery, TOWN OF MONTGOMERY TOWN
BOARD and TOWN OF MONTGOMERY,

Respondents-Defendants.

**SUPPLEMENTAL SUMMONS AND AMENDED VERIFIED
PETITION AND COMPLAINT**

WERNER & SAFFIOTI, L.L.P.

Attorneys for Petitioner-Plaintiff

Office Address

5031 Route 9W

Newburgh, New York 12550-1947

(845) 562-3500

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated: June 13, 2007

Signature: _____

Print Signer's Name: _____

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

Notice of Entry

*that the within is a true copy of a
entered in the office of the clerk of the within named Court on*

Notice of Settlement

*that an Order of which the within is a true copy will be presented for settlement to
the Hon. one of the judges of the within named Court,
on , at M.*

Dated:

WERNER & SAFFIOTI, L.L.P.

Attorneys for Petitioner-Plaintiff

5031 Route 9W

Newburgh, New York 12550-1947

(845) 562-3500

To: